

Spain

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the armed forces and Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Police forces include the national police and the Civil Guard, both under the authority of the central government, as well as municipal police and police forces under the authority of the Catalan and the Basque Country regional governments. All police forces operated effectively, with isolated reports of corruption.

Arrest Procedures and Treatment While in Detention

The law provides that police may apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing.

Detainees generally were promptly informed of the charges against them, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. The law provides detainees the right to consult a lawyer. There were often lengthy delays, however, between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention. In its March 25 report using 2007 information, the CPT noted that the detained persons it interviewed were only allowed to meet in private with a lawyer after they had made a formal statement to law enforcement officials. The state provided legal counsel to indigent detainees.

In certain rare instances involving acts of terrorism, the law allows authorities to detain persons for up to five days prior to arraignment with the authorization of a judge. In these cases a judge also may order incommunicado detention for the entire duration of police custody.

The law stipulates that suspects held incommunicado have the right to an attorney and medical care, but they are neither allowed to choose an attorney nor to see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer.

On February 20, the Spanish Society for the International Human Rights Law submitted a report to the UN in which it requested the Spanish government to close detention centers for foreigners on the grounds they were “discriminatory and illegal.” According to the association, abuses, mistreatment, and violations of human rights were committed in these centers.

The association's report stated that "the conditions of the centers are worse than those existing in jails in most areas." The report asserted that detainees spent up to 60 days in rooms holding six or eight persons, without privacy and with deficient health conditions and were provided insufficient access to health care and social assistance. The report also alleged that detainees were not informed of their right to seek asylum or allowed to contact a judge or prosecutor, there were not enough interpreters, and lawyers had trouble gaining access to them. It also claimed there were cases of torture, mistreatment, and threats on the part of officials in charge of the centers.

During the year the government generally continued to implement preventive measures to safeguard the rights of detainees held incommunicado, including the application of protocols and continuous video surveillance in detention facilities and interrogation rooms.

Pretrial Detention: As of August, there were 13,771 individuals in pretrial detention. Under the law, authorities may not detain suspects for more than two years before putting them on trial unless a judge authorizes a further delay, which may extend to four years. In practice pretrial detention was usually less than one year.